

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT SMITH,

Plaintiff,

Case No. 14-cv-10426
Hon. Matthew F. Leitman

v.

NORFOLK SOUTHERN COMPANY and
CONSOLIDATED RAIL CORPORATION,

Defendants.

**ORDER CONDITIONALLY GRANTING MOTION TO WITHDRAW AS
COUNSEL (ECF #36) AND REQUIRING PLAINTIFF ROBERT SMITH
PERSONALLY TO SHOW CAUSE WHY THIS ACTION SHOULD NOT
BE DISMISSED WITH PREJUDICE**

In this action, Plaintiff Robert Smith seeks damages arising out of an accident between a train and the vehicle he was driving. Smith is represented by Carl Collins, III of the Law Office of Carl Collins, III law firm and Lenox Emanuel, who is of counsel to the Law Office of Carl Collins, III firm.

On December 4, 2015, Mr. Collins, acting on behalf of himself, his law firm, and Mr. Emanuel, filed a motion to withdraw as Plaintiff's counsel (the "Motion"). On December 8, 2015, this Court entered an order (ECF #37) setting a hearing on the Motion for December 21, 2015 (the "Hearing Order"). The Hearing Order specifically required Plaintiff to attend the hearing on the Motion. It also expressly provided that it was to be sent to Plaintiff by regular mail by both Mr. Collins and

Mr. Emanuel, personally, and it further directed Mr. Collins and Mr. Emanuel to file a proof of service with the Court confirming that they sent the Hearing Order to Plaintiff.

On December 21, 2015, Mr. Emanuel and Mr. Collins appeared for the hearing on the Motion. Defense counsel and a party representative of Defendant also appeared. Plaintiff did not appear. Mr. Collins and Mr. Emanuel represented to the Court that, as ordered, they had sent the Hearing Order to Plaintiff at or about the time the Court entered that order. However, Mr. Collins and Mr. Emanuel both acknowledged that they had failed to file a proof of service with the Court confirming the mailing. The Court takes Mr. Collins and Mr. Emanuel at their word that they did, indeed, send the Hearing Order to Plaintiff.

In the Motion, Mr. Collins and Mr. Emanuel explain that there has been a breakdown in their attorney-client relationship with Plaintiff. Mr. Emanuel repeated that point at the hearing. The Court accepts their representation that the relationship has broken down, and the Court **GRANTS** their motion to withdraw upon fulfillment of the conditions set forth below.

In light of Plaintiff's failure to appear at the hearing on the Motion as ordered, **IT IS HEREBY ORDERED** that Plaintiff shall show cause in writing why this action should not be dismissed with prejudice. Plaintiff shall file his written response to this Order with the Clerk of this Court by not later than the

close of business on January 25, 2015. If Plaintiff fails to respond, this action will be dismissed with prejudice.

IT IS FURTHER ORDERED that by not later than the close of business on Wednesday, December 23, 2015, both Mr. Collins and Mr. Lenox shall separately send a copy of this order to Plaintiff by regular mail and shall separately file a proof of service with this Court confirming their timely sending of this order to Plaintiff.

Upon the filing of said proofs of service by both Mr. Collins and Mr. Emanuel, their appearance as counsel shall be terminated without further order of the Court. Neither of their appearances shall be terminated until both of them have filed the required proofs of service.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 21, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 21, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113